

MESSAGE NO: 6198206

MESSAGE DATE: 07/17/2006

MESSAGE STATUS: Active

CATEGORY: Antidumping

TYPE: INF-Information Notice PUBLIC ☒

NON-PUBLIC ☐

SUB-TYPE:

FR CITE: FR

FR CITE DATE:

REFERENCE  
MESSAGE #  
(s):

CASE #(s): A-552-801, A-555-801

EFFECTIVE DATE:

COURT CASE #:

PERIOD OF REVIEW:

TO

PERIOD COVERED: 10/22/2004 TO

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: FINAL AFFIRMATIVE DETERMINATION OF CIRCUMVENTION OF THE AD ORDER  
ON FROZEN FISH FILLETS FROM VIETNAM(A-552-801) CAMBODIA (A-555-801);  
CASH/CERTIFICATE

MESSAGE NO: 6198206

DATE: 07 17 2006

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REFERENCE:

REFERENCE DATE:

CASES: A - 552 - 801

A - 555 - 801

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PERIOD COVERED: 10 22 2004 TO

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS

PORT DIRECTORS

FROM: DIRECTOR, SPECIAL ENFORCEMENT

RE: FINAL AFFIRMATIVE DETERMINATION OF CIRCUMVENTION OF THE  
AD ORDER ON FROZEN FISH FILLETS FROM VIETNAM(A-552-801)  
CAMBODIA (A-555-801); CASH/CERTIFICATE

1. ON JULY 7, 2006, THE DEPARTMENT OF COMMERCE PUBLISHED IN THE  
FEDERAL REGISTER ITS NOTICE OF AN AFFIRMATIVE FINAL  
DETERMINATION OF CIRCUMVENTION OF THE ANTIDUMPING DUTY ORDER ON  
FROZEN FISH FILLETS FROM VIETNAM (71 FR 38608).

2. SCOPE OF THE ANTIDUMPING DUTY ORDER

THE SCOPE OF THE ANTIDUMPING DUTY ORDER INCLUDES FROZEN FISH

FILLETS, INCLUDING REGULAR, SHANK AND STRIP FILLETS AND PORTIONS THEREOF, WHETHER OR NOT BREADED OR MARINATED, OF THE SPECIES PANGASIU BOCOURTI, PANGASIU HYPOPHTHALAMUS (ALSO KNOWN AS PANGASIU PANGASIU), AND PANGASIU MICRONEMUS. FROZEN FISH FILLETS ARE LENGTHWISE CUTS OF WHOLE FISH. THE FILLET PRODUCTS COVERED BY THE SCOPE INCLUDES BONELESS FILLETS WITH THE BELLY FLAP INTACT ("REGULAR FILLETS"), BONELESS FILLETS WITH THE BELLY FLAP REMOVED ("SHANK FILLETS"), BONELESS SHANK FILLETS CUT INTO STRIPS ("FILLET STRIPS/FINGER"), WHICH INCLUDES FILLETS CUT INTO STRIPS, CHUNKS, BLOCKS, SKEWERS, OR ANY OTHER SHAPE.

SPECIFICALLY EXCLUDED FROM THE SCOPE ARE FROZEN WHOLE FISH (WHETHER OR NOT DRESSED), FROZEN STEAKS AND FROZEN BELLY-FLAP NUGGETS. FROZEN WHOLE DRESSED FISH ARE DEHEADED, SKINNED AND EVISCERATED. STEAKS ARE BONE-IN, CROSS-SECTION CUTS OF DRESSED FISH. NUGGETS ARE THE BELLY FLAPS.

THE SUBJECT MERCHANDISE WILL BE HEREINAFTER REFERRED TO AS FROZEN "BASA" AND "TRA" FILLETS, WHICH ARE THE VIETNAMESE COMMON NAMES FOR THESE SPECIES OF FISH. THE PRODUCTS COVERED BY THE ANTIDUMPING DUTY ORDER ARE CLASSIFIABLE UNDER TARIFF ARTICLE CODE 0304.20.60.33 (FROZEN FISH FILLETS OF THE SPECIES PANGASIU INCLUDING BASA AND TRA) OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES ("HTSUS"). THIS ORDER COVERS ALL FROZEN FISH FILLETS MEETING THE ABOVE SPECIFICATION, REGARDLESS OF TARIFF CLASSIFICATION. ALTHOUGH THE HTSUS SUBHEADINGS ARE PROVIDED, THE WRITTEN DESCRIPTION OF THE SCOPE OF THE SCOPE OF THE ORDER IS DISPOSITIVE.

### 3. SCOPE OF THE CIRCUMVENTION INQUIRY

THE PRODUCT SUBJECT TO THIS CIRCUMVENTION INQUIRY IS FROZEN FISH FILLETS PRODUCED IN THE KINGDOM OF CAMBODIA FROM FISH OF VIETNAMESE ORIGIN AND OF THE SPECIES PANGASIU BOCOURTI, PANGASIU HYPOPHTHALAMUS (ALSO KNOWN AS PANGASIU PANGASIU), OR PANGASIU MICRONEMUS PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND EXPORTED TO THE UNITED STATES.

4. THE DEPARTMENT HAS DETERMINED TO CONSIDER ALL ENTRIES OF FROZEN FISH FILLETS PRODUCED BY LIAN HENG TRADING CO. LTD. ("LIAN HENG TRADING") AND LIAN HENG INVESTMENT CO. LTD. ("LIAN HENG INVESTMENT") AND MADE FROM FISH OF THE SPECIES PANGASIU BOCOURTI, PANGASIU HYPOPHTHALAMUS (ALSO KNOWN AS PANGASIU PANGASIU), AND PANGASIU MICRONEMUS ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION, ON OR AFTER OCTOBER 22, 2004, THROUGH JULY 15, 2005, TO BE PRODUCED FROM VIETNAMESE-ORIGIN FISH AND THUS SUBJECT TO THE ANTIDUMPING DUTY ORDER ON FROZEN FISH FILLETS FROM VIETNAM.

FOR ALL ENTRIES OF FROZEN FISH FILLETS PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION, ON OR AFTER JULY 16, 2005 THAT ARE PRODUCED FROM THE ABOVE REFERENCED SPECIES, THE DEPARTMENT IS ALLOWING LIAN HENG TRADING AND LIAN HENG INVESTMENT TO PROVIDE A CERTIFICATE STATING THAT THE ENTERED PRODUCT WAS NOT PRODUCED FROM VIETNAMESE-ORIGIN FISH. THE CERTIFICATION IS ATTACHED AND CAN BE FOUND IN ATTACHMENT I OF THE FEDERAL REGISTER NOTICE (71 FR 9086). ANY ENTRIES OF FROZEN FISH FILLETS OF THE REFERENCED SPECIES PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT ON OR AFTER JULY 16, 2005, ACCOMPANIED BY THIS CERTIFICATION SHALL NOT BE SUBJECT TO THE ANTIDUMPING DUTY ORDER ON FROZEN FISH FILLETS FROM VIETNAM. ANY ENTRIES OF FROZEN FISH FILLETS OF THE REFERENCED SPECIES ON OR AFTER JULY 16, 2005, PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT THAT ARE NOT ACCOMPANIED BY THIS CERTIFICATION SHALL BE CONSIDERED SUBJECT TO THE ANTIDUMPING DUTY ORDER ON FROZEN FISH FILLETS FROM VIETNAM.

5. FOR IMPORTS OF FROZEN FISH FILLETS THAT MEET THE REQUIREMENTS FOR THE MERCHANDISE SUBJECT TO THE ANTIDUMPING DUTY ORDER AS DESCRIBED ABOVE PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION ON OR AFTER OCTOBER 22, 2004, UNTIL JULY, 15, 2005, UNITED STATES CUSTOMS AND BORDER PROTECTION ("CBP") SHALL SUSPEND LIQUIDATION OF SUCH SHIPMENTS.

IN ADDITION, EFFECTIVE OCTOBER 22, 2004, CBP SHALL REQUIRE, FOR ALL ENTRIES PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT FROM OCTOBER 22, 2004 THROUGH JULY 15, 2005, A CASH DEPOSIT EQUAL TO THE MARGIN SHOWN BELOW:

MANUFACTURER/PRODUCER/

EXPORTER	CUSTOMS ID NUMBER	MARGIN/PERCENTAGE
LIAN HENG TRADING	A-555-801-001	63.88
LIAN HENG INVESTMENT	A-555-801-002	63.88

6. FOR IMPORTS OF FROZEN FISH FILLETS ENTERING ON OR AFTER JULY 16, 2005, THAT MEET THE REQUIREMENTS FOR THE MERCHANDISE SUBJECT TO THE ANTIDUMPING DUTY ORDER AND ARE PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT, THAT ARE NOT ACCOMPANIED BY A CERTIFICATE STATING THAT NO VIETNAMESE-ORIGIN FISH WAS USED IN THE PRODUCTION OF THE ENTERED PRODUCT, CBP SHALL SUSPEND LIQUIDATION OF SUCH SHIPMENTS. IN ADDITION, THESE ENTRIES WILL BE SUBJECT TO A CASH DEPOSIT EQUAL TO THE MARGIN SHOWN BELOW:

MANUFACTURER/PRODUCER

/EXPORTER	CUSTOMS ID NUMBER	MARGIN PERCENTAGE
LIAN HENG TRADING	A-555-801-001	63.88
LIAN HENG INVESTMENT	A-555-801-002	63.88

7. FOR ENTRIES OF FROZEN FISH FILLETS THAT MEET THE REQUIREMENTS FOR THE MERCHANDISE SUBJECT TO THE ANTIDUMPING DUTY

ORDER AS DESCRIBED ABOVE PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION ON OR AFTER OCTOBER 22, 2004 AND ARE SET FOR LIQUIDATION NEED TO BE UNSET IMMEDIATELY.

8. SPECIAL NOTE-THE ACTUAL INITIATION DATE IS OCTOBER 22, 2004

AND THE PRELIMINARY DETERMINATION DATE IS FEBRUARY 22, 2006. HOWEVER, IN ORDER FOR THE ACS MODULE TO ACCEPT THE CORRECT EFFECTIVE DATE FOR THE SUSPENSION OF LIQUIDATION (OCTOBER 22, 2004), IT WAS NECESSARY TO LIST OCTOBER 22, 2004 AS BOTH THE EFFECTIVE DATE OF SUSPENSION OF LIQUIDATION AND THE DATE OF THE

PRELIMINARY DETERMINATION. THIS IS DIFFERENT FROM THE DATES LISTED IN THE FEDERAL REGISTER NOTICE (71 FR 9086). IN ADDITION, THE ACS MODULE REQUIRES THAT THE INITIATION DATE BE AT LEAST ONE DAY PRIOR TO THE DATE OF THE PRELIMINARY DETERMINATION. THEREFORE, THE MODULE LISTS OCTOBER 21, 2004 AS THE INITIATION DATE.

9. THE ASSESSMENT OF ANTIDUMPING DUTIES BY THE CUSTOMS SERVICE ON ENTRIES OF THIS MERCHANDISE IS SUBJECT TO THE PROVISIONS OF SECTION 778 OF THE TARIFF ACT OF 1930. SECTION 778 REQUIRES THAT CUSTOMS PAY INTEREST ON OVERPAYMENTS, OR ASSESS INTEREST ON UNDER PAYMENTS, OF THE REQUIRED AMOUNTS DEPOSITED AS ESTIMATED ANTIDUMPING DUTIES. THE INTEREST PROVISIONS ARE NOT APPLICABLE TO CASH OR BONDS POSTED AS ESTIMATED DUTIES BEFORE THE DATE OF PUBLICATION OF THE ANTIDUMPING DUTY ORDER. INTEREST SHALL BE CALCULATED FROM THE DATE PAYMENT OF THE ESTIMATED ANTIDUMPING DUTIES IS REQUIRED THROUGH THE DATE OF LIQUIDATION. THE RATE AT WHICH SUCH INTEREST IS PAYABLE IS THE RATE IN EFFECT UNDER SECTION 6621 OF THE INTERNAL REVENUE CODE OF 1954 FOR SUCH PERIOD.

10. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CBP OFFICERS, THE IMPORTING PUBLIC OR INTERESTED PARTIES, PLEASE CONTACT DAVINA HASHMI OR RON TRENTAM AT OFFICE OF AD/CVD ENFORCEMENT, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, AT (202) 482-3577 (GENERATED BY O9:KR).

11. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

CATHY SAUCEDA

## CERTIFICATION TO U.S. CUSTOMS AND BORDER PROTECTION

Certification of Lian Heng1\_\_\_\_\_

## CERTIFICATION TO U.S. CUSTOMS AND BORDER PROTECTION

1. Lian Heng hereby certifies that the frozen fish fillets being exported and subject to this certification were not produced from fish of Vietnamese origin of the following species: Pangasius Bocourti (commonly known as basa or trey basa), Pangasius Hypophthalmus (also known as Pangasius Pangasius and commonly known as tra or trey pra), or Pangasius Micronemus.

2. By signing this certificate, Lian Heng also hereby agrees to maintain sufficient documentation supporting the above statement such as country of origin certificates for all fish used to process the exported frozen fish fillets.<sup>2</sup> Further, Lian Heng agrees to submit to verification of the underlying documentation supporting the above statement. Lian Heng agrees that failure to submit to verification of the documentation supporting these statements will result in immediate revocation of Lian Heng's certification rights and that Lian Heng will be required to post a cash deposit equal to the Vietnam-wide entity rate on all entries of frozen fish fillets of the species Pangasius Bocourti (commonly known as basa or trey basa), Pangasius Hypophthalmus (also known as Pangasius Pangasius and commonly known as tra or trey pra), or Pangasius Micronemus. In addition, if the Department of Commerce identifies any misrepresentation or inconsistencies regarding the certifications, it may report the matter to Customs and Border Protection for possible enforcement action.

Signature:

Printed Name:

Title:



## Company Details

\*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party